

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

GLENN et al.

Appln. No. 09/266,803

Filed: March 12, 1999

Atty. Ref.: 4057-8

Group Art Unit: 1644

Examiner: G.R. Ewoldt

FOR: ADJUVANT FOR TRANSCUTANEOUS IMMUNIZATION

* * *

ELECTION IN RESPONSE TO RESTRICTION REQUIREMENT

July 18, 2002

Hon. Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the pending Office Action (Paper No. 28) mailed June 18, 2002, Group I (claims 1-29, 31-35, 50-61, 79-103 and 105-106) is elected with traverse. For the election of a specific adjuvant, *E. coli* heat-labile enterotoxin (LT) or a derivative thereof is elected. Claims 1-21, 24, 27-35, 50-68, 71, 74-79, 82-83, 87, 90, 93-94 and 96-107 read on the elected species. Applicants reserve the right to prosecute the non-elected subject matter in a further patent application.

Claims 1-35 and 50-107 are pending. Claims 36-49 were canceled without prejudice or disclaimer in the Preliminary Amendment of March 12, 1999 and the After-Final Amendment of December 21, 2001. The new claims from the After-Final Amendment, which were entered on February 12, 2002, have been renumbered claims 50-107.

Traversal is on the grounds that examining all of the pending claims would not constitute an undue burden. With regard to claims of Groups I and II, it should be noted that claims 1 and 30 inter alia were under examination in the Office Action (Paper No. 18). Therefore, examining the amended claims 1 and 30 inter alia would not constitute an undue burden because no distinction was previously found in the scope of subject matter which would require consideration. Furthermore, it should be noted that an ADP-ribosylating exotoxin or derivative thereof having adjuvant activity can be considered an antigen which is derived from a pathogen. With regard to Group III (claim 78), this can

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be considered a variation of the invention described in the specification. Examination of all claims would be in the public interest because it would result in compact prosecution.

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Gary R. Tanigawa
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Atty Dkt. 4057-8

GLENN et al.

C# M#

Serial No. 09/266,803

Group Art Unit: 1644

Filed: March 12, 1999

Examiner: G. R. Ewoldt

Title: ADJUVANT FOR TRANSCUTANEOUS IMMUNIZATION

Date: July 18, 2002

Assistant Commissioner for Patents
Washington, DC 20231

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Sir:

ELECTION IN RESPONSE TO RESTRICTION REQUIREMENT

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Fees are attached as calculated below:

Total effective claims after amendment **93** minus highest number
previously paid for **93** (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment **6** minus highest number
previously paid for **6** (at least 3) = 0 x \$ 84.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00) \$ 0.00

☐ Please enter the previously unentered, filed

☐ Submission attached

Subtotal \$ 0.00

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: 0.00

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: Gary R. Tanigawa, Reg. No. 43,180

Signature: 